

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES LAMONT MILLER,)	
)	
Petitioner,)	Case No. 1:07-cv-546
)	
v.)	Honorable Robert Holmes Bell
)	
WILLIE O. SMITH,)	
)	
Respondent.)	<u>MEMORANDUM OPINION</u>
)	

This matter is before the court on petitioner's timely objections to the report and recommendation of the magistrate judge, which concluded that the habeas corpus petition failed to state a claim under 28 U.S.C. § 2254. Upon review of the petition, the magistrate judge determined that petitioner is not challenging the constitutional validity of any of the eleven serious felony charges for which he is serving terms aggregating to life imprisonment. Rather, petitioner is challenging his security classification and the decision of prison authorities to confine him to long-term administrative segregation. In his objections, which this court accords *de novo* review, petitioner insists that a habeas corpus petition is an appropriate avenue to seek relief.

Upon *de novo* review, this court concludes that petitioner's claims are inappropriately brought in a habeas corpus petition, which is limited to assertions that a petitioner is in custody in violation of the federal Constitution or laws. 28 U.S.C. § 2254(a). The petition does not challenge the lawfulness of petitioner's confinement, but merely seeks to challenge the conditions of

confinement. Claims such as those now contained in the petition must be brought by an appropriate civil rights action pursuant to 42 U.S.C. § 1983.

For the foregoing reasons, the court concludes that petitioner has failed to state a claim for relief under 28 U.S.C. § 2254, as he does not allege that he is in custody in violation of the federal Constitution or laws. The report and recommendation of the magistrate judge will therefore be adopted as the opinion of the court, and the petition will be dismissed for failure to state a claim upon which habeas corpus relief can be granted.

Date: August 14, 2007

/s/ Robert Holmes Bell

ROBERT HOLMES BELL

CHIEF UNITED STATES DISTRICT JUDGE